

complaint

Mr P complains about a boiler he acquired through a conditional sale agreement with A Shade Greener (Boilers) LLP ("ASGB").

background

In April 2015, a new boiler was fitted in a property which Mr P rents out to tenants. Mr P says as a result of ASGB failing to carry out an effective powerflush, the boiler filled with debris causing the heat exchanger to rust and the boiler to perform as not expected. Mr P says this caused problems with fluctuating hot water.

In March 2018, an ASGB engineer went to rectify the issue with fluctuating hot water. Some work was carried out and Mr P was advised that if this issue reoccurred, a manual flush or powerflush would need to be carried out. The engineer said that they would return to replace the heat plate which Mr P would need to pay for once the powerflush was done – the heat plate was replaced on 15 August 2019. The engineer also mentioned the radiators in the property were quite old and that this was the cause of the issue.

In May 2018, Mr P experienced further issues with fluctuating hot water and so paid for a powerflush to be carried out on the boiler by a third party engineer.

In June 2018, Mr P reported a further fault with the boiler. ASGB said that this fault related to a short circuit which they say was unrelated to the fluctuating hot water that Mr P had been reporting.

Mr P says that none of the issues are likely to have occurred had ASGB carried out the installation with reasonable care and skill. Mr P wants a full refund for the powerflush he arranged to be carried out and compensation for the stress and inconvenience this has caused him.

ASGB say a powerflush was carried out with reasonable care and skill at the time of installation and that a further flush was required due to the age of the radiators (and/or existing pipework) which Mr P has said are 15 years old. ASGB don't think the issues Mr P reported were due to the way the boiler was installed or steps taken at the time of installation.

Our investigator looked into Mr P's concerns. He said looking at the evidence provided, he didn't think a powerflush had been carried out with reasonable care and skill by ASGB upon installation of the boiler. He said he didn't think the issues Mr P reported were due to failure on Mr P's part to maintain the system. He also said that the third party inspection report showed the heat plate exchanger was in a poor condition and this along with the debris, was as a result of an ineffective powerflush completed on installation. So he asked ASGB to pay Mr P:

- refund the cost incurred to conduct a further powerflush (£310.47) plus 8% simple interest from the date of payment to the date of settlement
- replace the 'plate' referred to in remedial/advisory notice at no cost to Mr P if not already done (If already completed and Mr P has been charged for this - refund the cost plus 8% simple interest from the date of payment to the date of settlement)
- £150.00 compensation for the distress and inconvenience caused.

ASGB responded and in summary they said the report carried out by the third party was invalid as they say the engineer wasn't suitably qualified to be able to offer an expert opinion on the matter for several reasons. So the complaint has been passed to me for a decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr P acquired the boiler under a conditional sale agreement. Under this type of agreement ASGB is the supplier of the goods and is responsible for fulfilling its obligations as set out in the agreement, and any terms which are implied by relevant law.

In deciding what's fair and reasonable I've taken into consideration – amongst other things – the relevant law and in particular the Sale of Goods Act 1979 and also the Supply of Goods and Services Act 1982. Without going into great detail, the relevant effect of these pieces of legislation is that any goods ASGB supplied under the agreement needed to have been of satisfactory quality, and any services would need to have been carried out with reasonable care and skill.

I note ASGB have said a powerflush was carried out at the time of installing the boiler. And they've provided a document to show Mr P agreed that a powerflush had been carried out. But I can't just rely on a signed piece of paper to say someone was happy with an installation – I'd need to consider the whole circumstances presented to me. In particular, I wouldn't expect Mr P to know a power flush had been carried out with reasonable care and skill because he isn't an expert. So I don't think his signature on the document indicated the power flush was carried out to the appropriate standard.

Mr P has provided a report from a third party independent engineer. A heat plate exchanger allows heat to be exchanged between two fluids or substances, usually water or gas, without letting the substances mix together. The report indicates that due to the amount of rust that had built up on the heat plate exchanger over such a short period of time and the water being so clear, it seems unlikely that an effective powerflush was carried out on installation. The report says that water in a heating system being so clear possibly shows that the inhibitor wasn't added to the heating system at the time which is necessary to prevent a build up of debris in the system in the future. And the report also explained there was a lot of debris in the filter which the engineer had to clean out.

ASGB have provided several reasons as to why they think the third party report is unreliable. I want to assure ASGB that I have considered everything they have told me in my decision. But I think the report is credible enough for me to rely on. I say this because the report provides a thorough and detailed account of what the third party saw in the boiler and also provides detail around the condition of the radiators at Mr P's property. Even if I did think that the third party engineer wasn't suitably qualified to offer an expert opinion, it's clear from the commentary in the report that the rust was easily identifiable. I don't think it requires an engineer to have qualifications to be able to visually identify any damage.

At the time of the installation, Mr P said the engineer was only there for a couple of hours. A power-flush is a procedure for cleaning the existing pipework and radiators in a heating system to prevent any rust and sludge causing damage to the boiler. Evidence online suggests a full powerflush is likely to take most of a day, so it seems unlikely the procedure was completed properly.

From what I know, a powerflush is recommended every five to six years to ensure a boiler is kept in the best condition and working as expected. In this case, it was only three years from the point of installation that Mr P experienced problems with the boiler and its function.

ASGB blame the age of Mr P's existing pipework for a lot of the problems, but I don't think this is the main reason the boiler wasn't working properly. And I have no reason to discredit the report provided by the third party engineer. Having considered everything in the round, I'm persuaded that ASGB didn't carry out the installation with reasonable care and skill.

Although I accept ASGB took some action to clean out the plate blockage in March 2018, I'm not convinced this resolved the underlying issue with the fluctuating hot water and I'll explain why.

I can see from the paperwork provided by ASGB that the engineer managed to '*clean the plate to plate blockage enough to get the boiler working again*'. But I can't see that other parts of the boiler were inspected, cleaned or replaced, meaning these could still have been contaminated with debris. While it's not possible to know this for sure, given the water in the system was clear (as commented on in the third party engineer's report), despite what ASGB have said that the debris can be caused by old pipework, it appears unlikely to me the debris could have come from anywhere else. Based on the available evidence, I think the debris which blocked the plate was most likely down to an ineffective powerflush upon installation.

I can see from the paperwork provided by ASGB that following their inspection in March 2018, that they would replace the plate exchanger once Mr P arranges for a powerflush to be carried out. At this point, the report explains that the engineer had managed to clean the plate enough to remove the blockage to get the boiler working again. Once the powerflush was carried out, Mr P arranged for the heat plate to be replaced in August 2019. As explained, in this report the third party engineer saw significant rust build up on the heat plate which suggests to me that the heat plate was still contaminated at that point. Having thought about everything, I believe the heat plate was most likely contaminated from the very start – I think the cleaning of the plate in March 2018 was a temporary fix to allow the boiler to work.

Mr P paid for the cost of this replacement as this was done outside of the warranty period. As I've concluded that the debris which blocked the plate was down to an ineffective powerflush upon installation, I think ASGB should refund Mr P the cost he paid for replacement plate.

Despite ASGB's detailed response to the investigators view, I've not seen any new evidence from them to convince me that the issues Mr P had with his boiler are not most likely the direct result of it not being installed properly in the first instance.

ASGB have said the issue reported by Mr P in June 2018 was in relation to a short circuit in the power circuit board (PCB). ASGB have confirmed the PCB was replaced and as this was covered under the warranty, Mr P didn't pay for the replacement. I'm satisfied ASGB don't need to do anything more here as I'm persuaded this issue isn't related to the powerflush not being completed effectively upon installation of the boiler.

ASGB had a responsibility to carry out the installation (which included the powerflush process) with reasonable care and skill. In my view they failed to do so, which most likely lead to blockages of the boiler which I think they were responsible for putting right. Had the

powerflush been carried out effectively, I don't think it's likely the heat plate would've become blocked by debris within three years after installation.

In order to put things right, ASGB needs to put Mr P back in the position he'd have been, in had the installation been carried out with reasonable care and skill. So in addition to a refund for the replacement plate, I think ASGB should also refund Mr P the amount he paid the third party engineer to carry out a powerflush in May 2018.

Mr P has told us this issue caused him a lot of stress and inconvenience – especially as he had to arrange for the issues to be resolved on behalf of the tenants living in the property. I can understand the inconvenience for Mr P to arrange himself for an effective powerflush to be done and for the heat exchanger plate to be replaced. In the circumstances, I think ASGB should pay Mr P £150 compensation.

I note ASGB have said they are prepared to report the third party engineer Mr P instructed for the powerflush to the relevant boards as he doesn't hold the relevant qualifications. However, I want to make it clear that it's not my role to comment on this.

my final decision

My final decision is that I uphold this complaint. I require A Shade Greener (Boilers) LLP to:

- refund the cost Mr P paid for the powerflush that was carried out in May 2018 plus 8% simple interest from the date of payment to the date of settlement.
- refund the cost of the heat plate that was replaced on 15 August 2019 plus 8% simple interest from the date of payment to the date of settlement.
- pay Mr P £150.00 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 June 2020.

Leanne McEvoy
ombudsman